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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 27, 2000

APPLICATION OF

APPALACHIAN POWER COMPANY

CASE NO. PUE990716

To revise its fuel factor  
pursuant to Va. Code § 56-249.6

ORDER DENYING MOTION TO STRIKE AND  
ESTABLISHING REVISED PROCEDURAL SCHEDULE

On December 2, 1999, the Staff of the State Corporation Commission ("Staff") filed a motion to strike the portion of Appalachian Power Company's ("Appalachian" or "the Company") application and supporting testimony that requests a change in its Definitional Framework of Fuel Expenses ("Definitional Framework") to permit SO<sub>2</sub> emission allowance costs to be recovered through the fuel factor. In its motion, Staff argued, among other things, that the Stipulation adopted by the Commission in Case No. PUE960301 prohibits a revision of the Company's Definitional Framework during the period January 1, 1998, through December 31, 2000 ("Plan Period").

On December 9, 1999, Appalachian filed a response to the Staff's motion, stating, in particular, that the Stipulation does not prohibit the Company from requesting a change in its fuel factor, and that the Company is only requesting that the

Definitional Framework be clarified to reflect what it views as the proper treatment of SO<sub>2</sub> emission allowance costs.

The Staff filed its reply to the Company's response on December 14, 1999, asserting that a change in the Definitional Framework is tantamount to an increase in rates, which is specifically precluded by the terms of the Stipulation. Staff argued that such a change is contrary to the spirit and intent of the negotiated agreement.

NOW THE COMMISSION, having considered the Staff's motion, the Company's response, and the Staff's reply to that response, is of the opinion that the Staff's motion to strike should be denied. Accordingly, we will set a new procedural schedule for this matter. Additionally, we find that the Company's request for a discovery cut-off date should be denied.

We have concluded that the Commission should have a hearing to consider the request to change the Definitional Framework. We encourage the Staff, Appalachian, and other parties to present a fully developed record in this case on all aspects of the proposed change in the Definitional Framework.

With regard to the Company's request for a discovery cut-off date raised in its December 2, 1999, response to Staff's motion for a continuance, we find that this request should also be denied. Rule 6:4 of the Commission's Rules of Practice and Procedure (SCC Rules) states that interrogatories may not be

served which cannot be timely answered before the scheduled hearing date without leave of the Commission. We believe this rule is reasonable and provides the Company sufficient time to prepare its case for hearing. Therefore, discovery shall be as specified in our November 2, 1999, Order Establishing 1999-2000 Fuel Factor Proceeding ("Order") and in accordance with Part VI of the SCC Rules. Accordingly, IT IS ORDERED THAT:

(1) Staff's motion to strike is denied.

(2) Appalachian's request for a discovery cut-off date is denied.

(3) A hearing on the Company's application, including the issue of whether Appalachian may revise its Definitional Framework to permit SO<sub>2</sub> emission allowance costs to be recovered through the fuel factor, is scheduled for 10:00 a.m. on April 11, 2000, in the Commission's second floor courtroom for the purpose of receiving evidence related to the establishment of Appalachian's fuel factor for the 12-month period beginning December 1, 1999.

(4) On or before February 25, 2000, any person desiring to participate as a Protestant, as defined in Rule 4:6 of the SCC Rules shall file with the Clerk, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, an original and twenty (20) copies of a notice of protest as provided in SCC Rule 5:16(a) and serve a copy on counsel for the Company as follows:

Michael J. Quinan, Esquire, Woods, Rogers & Hazlegrove, P.L.C.,  
823 East Main Street, Suite 1200, Richmond, Virginia 23219.

(5) On or before February 25, 2000, each Protestant shall file with the Clerk of the Commission an original and twenty (20) copies of a Protest (SCC Rule 5:16(b)) and of the prepared testimony and exhibits Protestant intends to present at the hearing, and serve two (2) copies of each on Appalachian and all other Protestants.

(6) On or before March 24, 2000, the Commission Staff shall investigate the reasonableness of the Company's request, file a report, which may take the form of prefiled testimony, of its investigation with the Clerk, and serve a copy on the Company and all Protestants.

(7) On or before April 5, 2000, Appalachian shall file an original and twenty (20) copies of all testimony it expects to introduce in rebuttal to all direct prefiled testimony and exhibits. Additional rebuttal evidence may be presented without prefiling, provided it is in response to evidence that was not prefiled but elicited at the time of the hearing and provided further that the need for additional rebuttal evidence is timely addressed by motion during the hearing and leave to present said evidence is granted by the Commission. A copy of the prefiled rebuttal evidence shall be served upon all other Protestants.

(8) All other provisions of our November 2, 1999, Order shall remain in effect.